

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

BARBARA HUSS, ET AL.

PLAINTIFF

VERSUS

CASE NO.: 2:00CV131-D-S

JOHN OVERTON GAYDEN, M.D., ET AL.

DEFENDANTS

PLAINTIFF'S MOTION FOR CONTINUANCE

COMES NOW, Plaintiff, Barbara Huss, by and through counsel, and respectfully moves this Court to continue the trial date from it's current setting, stating in support thereof as follows:

I.

This action is one for medical malpractice.

II.

Plaintiff, Barbara Huss, through her counsel, represents to the Court that the decision rendered by the Fifth Circuit Court of Appeals will be appealed to the U.S. Supreme Court within the time allowed for the perfection of such appeal. Inasmuch as the rules allow 90 days to appeal this matter to the U.S. Supreme Court, and thereafter, it is anticipated that a certain amount of time will pass before the U.S. Supreme Court advises whether it will accept the appeal or not. It is likely that a final resolution of this matter before the U.S. Supreme Court may not be rendered in time for trial preparation.

III.

Plaintiff would further show unto the Court that his matter was held and considered by the Fifth Circuit Court of Appeals for a substantial amount of time and Plaintiff submits to the Court that a delay for the purpose of finalizing all appellate remedies would be in the interest of justice.

WHEREFORE PREMISES CONSIDERED, Plaintiff, Barbara Huss, respectfully request this Court to grant a Motion to Continue, and requests that this trial be rescheduled for a date mutually agreeable to all parties and the Court, after final decision is rendered by the U.S. Supreme Court.

Respectfully submitted,

CHAPMAN, LEWIS & SWAN, PLLC  
ATTORNEYS for Plaintiff  
501 First Street  
P. O. Box 428  
Clarksdale, MS 38614  
(662) 627-4105 telephone  
(662) 627-4171 facsimile

By:/s/Ralph E. Chapman  
Ralph E. Chapman  
MSB # 5962

OF COUNSEL

Jenny M. Virden  
MSB #: 6618  
CHAPMAN, LEWIS & SWAN, PLLC  
P. O. Box 2801  
Madison, MS 39130  
(601) 605-9081 telephone  
(601) 605-9765 facsimile

John H. Daniels, III  
Dyer, Dyer, Jones & Daniels  
P. O. Drawer 560  
Greenville, MS 38702-0560  
(662) 378-2626 telephone

CERTIFICATE OF SERVICE

I, Ralph E. Chapman, do hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the above and foregoing to:

Mark P. Caraway, Esq.

Wise, Carter, Child & Caraway  
P. O. Box 651  
Jackson, MS 39205-0651

E. P. Lobrano, Jr., Esq.  
Lobrano & Butler  
601 D. Hwy. 61  
Ridgeland, MS 39157

THIS, The 9th day of November, 2009.

*/s/Ralph E. Chapman*

Ralph E. Chapman